

20. Ebenstein is a Partner of the Company and Director of its Training and Development practice. Ebenstein has been responsible for working on the Company's curricula for client workshops and instruction on conflict resolution and effective communication skills, leading client workshops, and providing executive coaching.

21. The Company employs a third executive employee, who hold the title Partner and Director of Peace Building. The Company at times has engaged other full-time employees, and also maintains a roster of associates who from time to time have been engaged to staff client assignments.

C. Consensus pays Ebenstein to write a book to promote Consensus' business.

22. Consensus has recognized that its reputation, brand awareness and business are enhanced by the published works of its employees and associates. From the Company's inception, Rosenthal and Ebenstein agreed that Consensus would encourage its employees to write and publish works in the ordinary course of their employment. Consensus' promotional materials and web site prominently feature its employees' published works.

23. Consensus periodically has published its own client newsletter. Consensus employees are encouraged, and in some instances assigned, to contribute articles to the Consensus newsletter as part of their ordinary employment duties. Consensus disseminates its newsletter to current and prospective clients and professional colleagues.

24. In addition to the newsletter, Consensus employees are encouraged to pursue outside publishing opportunities. Employees typically confer with Rosenthal, the managing partner, about a proposed writing opportunity. Once approved, the employees

generally work on the project during the normal workday, using the Company's computers and other resources and drawing on the assistance and expertise of their Consensus colleagues as they would any other work-related matter. And like any other work-related matter, they receive full pay while engaged in writing projects.

25. In or around 2007, Ebenstein developed an idea for an article. Ebenstein had been helping to develop and teach client workshops on communication, negotiation and conflict resolution. Consensus offered, among other services, a menu of client workshops, each of which could be customized to meet the specific goals of a client. For customized assignments, Consensus generally would develop a tailored curriculum designed to meet the client's goals, and then present the workshop to the client's participants.

26. Consensus' workshop programs originally were rooted in prevailing and established industry standards. Over time, however, Consensus had modified, supplemented and added to those industry standards based on Consensus' own case studies, research and experiences, and created its own distinct workshop curricula. The Consensus brand of workshop was proving popular and successful among clients.

27. Ebenstein told Rosenthal that he wanted to write an article that identified and explained the key factors that made the Consensus brand of workshops successful and distinct from its competitors' workshops. Ebenstein said that such an article would enhance the Consensus brand of workshops and broaden its growing appeal. Rosenthal agreed.

28. Ebenstein discussed his idea with Zachary Metz, a Consensus partner in the Training and Development practice. During the ordinary course of their work,

Ebenstein and Metz discussed ideas for the article, drawing on past Consensus client assignments and case studies for information and data that might be useful. Ebenstein and Metz recognized that the Consensus workshops were distinctive because of an emphasis on hands-on training to develop the skills of what they began to call "Perspective Analysis." In general, Perspective Analysis refers to an awareness that each participant in a meeting or negotiation or dispute has his or her own perspective, a capacity to hear what others are saying and to understand each of their perspectives, and an ability to communicate with people sharing different perspectives to reach consensus. Rather than lecture alone, Consensus' workshops encouraged participants to experience Perspective Analysis through role-play and other hands-on exercises.

29. Ebenstein completed the article on Perspective Analysis, writing it in the ordinary course of business, using the Company's computer equipment and resources. In 2007, Ebenstein's article, entitled "Perspective Analysis: Tools for Shifting Perspective to Increase Effectiveness," was published in the Journal for Organizational Development.

30. Following publication of the article, Ebenstein, Metz and other Consensus employees created new workshop curricula explicitly incorporating a three-part Perspective Analysis framework for enhancing communication, negotiation and conflict resolution skills.

31. Around the time the article was published, Ebenstein discussed with Rosenthal the idea of expanding the article into a book. Ebenstein explained that the book would be a more thorough review of Consensus' Perspective Analysis framework to enhancing communication, negotiation and conflict resolution skills. The book, however,

would be written for a broader audience, and provide greater exposure to the Consensus brand of thought product and workshops. Ebenstein convinced Rosenthal that a published book would enhance the profile of the Company and expand its practice. Rosenthal agreed that Ebenstein would write the book, and understood it would be a Company project.

32. Rosenthal, Ebenstein and Ericka Duroseau, Consensus' Operations Manager, were assigned early responsibilities for the book project. In 2008, before the book was written, they created a book proposal to solicit the interest of publishing agents. The book proposal included a description of the proposed book and a marketing plan to demonstrate its commercial appeal. Duroseau compiled a list of publishing agents and, under cover letter on Consensus letterhead signed by Ebenstein, sent the book proposals for consideration. This work was all performed in the ordinary course of business and within the scope of their employment, and all associated expenses were paid by Consensus. Through the fall of 2008, the book proposal had not generated significant interest among publishing agents.

33. In early 2008, Ebenstein told Rosenthal that he intended to spend an extended period of time in Israel, at least several months, and would depart in November 2008. Rosenthal expressed concern about Consensus paying Ebenstein his full salary while he was on an extended trip, and asked what work Ebenstein would do for Consensus while in Israel. Ebenstein replied that he would continue to write the book and try to open a Consensus Mid-East office. When Rosenthal wondered whether the book was worth such substantial investment by Consensus, Ebenstein persuaded him that the book would be picked up for publication and that Consensus would realize significant

benefit from it. Consensus, among other things, purchased a desktop computer for Ebenstein to use for work in Israel.

34. Ebenstein was in Israel from on or about November 25, 2008 through on or about August 16, 2009. During that time, Ebenstein worked on the book, using Consensus-provided computers to draft sections and saving drafts to the Company's computer shared drive. He circulated drafts to Rosenthal and Duroseau for review and comments, and Duroseau arranged for packages to be sent between Consensus' offices and Ebenstein in Israel, all at Consensus' expense.

35. In mid-2009, while Ebenstein was still in Israel, he, Rosenthal and Duroseau completed a substantially expanded book proposal totaling over 70 pages. Ebenstein included descriptions of each chapter and a sample chapter. Rosenthal created a significantly expanded and comprehensive marketing plan that demonstrated the commercial appeal of the book, including the substantial Consensus distribution network. The book proposal included a one-page biography of Ebenstein, and a two-page description of Consensus. Ebenstein directed Duroseau to print copies of the proposal in color, bind and mail with a cover letter -- on Consensus letterhead. The copying, binding and mailing expenses were borne by Consensus.

36. During the approximately 8 months he was in Israel, Ebenstein did little billable client work. Consensus was paid \$20,008 on all client work in which Ebenstein was at all involved. During that same time period, he was paid salary and profit distributions totaling \$92,000 -- the same amount that Rosenthal earned during that period working full-time in New York managing the entire business, which generated revenues of approximately \$400,000. For the twelve-month period December 1, 2008